

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

VIVIAN HOUSTON, et al.,

Plaintiffs,

v.

CHRISTOPHER KLAVERKAMP, et al.,

Defendants.

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No. 4:22-CV-371 RLW

ORDER

This matter is before the Court on review of the file. On October 6, 2022, the Court granted Defendant Scott Amos's Motion for More Definite Statement and held in abeyance Defendant Christopher Klaverkamp's Motion to Dismiss. (ECF No. 32). In this same Order, the Court ordered Plaintiffs Vivian Houston and Johnnie L. Ball to file an amended complaint on or before November 7, 2022, which they did on October 31, 2022. (ECF No. 33). As the amended complaint supplants Plaintiff's initial complaint, the Court will deny as moot Defendant Klaverkamp's Motion to Dismiss, which was directed at the claims and allegations in Plaintiffs' initial complaint. The Court will also deny as moot Plaintiffs' motion for leave to file a surreply in opposition to Defendant Klaverkamp's motion to dismiss, as the motion to dismiss is no longer pending.

On October 31, 2022, Plaintiffs also filed a document entitled "Motion for Leave to File The Surreply Order and Memorandum Amended Brief, 'Fed. R. Civ. P. 12(e), Motion for Definite Statement' and Plaintiffs' Opposition to Defendant Christopher Klaverkamp, Motion to Dismiss Memorandum Support, Order, FRCP. Rule 19 Motion for 'Defendant Christopher Klaverkamp for more Definite Statement.'" (ECF No. 34). The Court reviewed the motion, attached exhibits, and memorandum in support, which was filed on November 2, 2022. (ECF No. 35). It is not

clear from the filings what relief Plaintiffs are requesting from the Court. To the extent Plaintiffs seek to supplement their legal memoranda in opposition to Defendant Klaverkamp's motion to dismiss or Defendant Amos's motion for more definite statement, the motion is denied, as these motions are no longer pending. To the extent Plaintiffs seek to add an additional party or parties to this suit pursuant Fed. R. Civ. P. 19, the motion is denied because, among other things, Plaintiffs fail to state who they seek to join. Finally, to the extent Plaintiffs are attempting to supplement or clarify their amended complaint through this motion and supporting documents, the motion is denied. Claims and allegations must be made within an amended complaint only. Nothing in this document will be construed to be part of Plaintiffs' Amended Complaint. See Culpepper v. Vilsack, 664 F.3d 252, 259 (8th Cir. 2011) (instructing that claims and allegations that do not appear in the plaintiff's complaint are not properly before the court); Hutson v. Wells Dairy, Inc., 578 F.3d 823, 827 (8th Cir. 2009) (same).


Accordingly,

IT IS HEREBY ORDERED that Defendant Christopher Klaverkamp's Motion to Dismiss is **DENIED as moot**. [ECF No. 15]

IT IS FURTHER ORDERED that Plaintiffs' Motion for Leave to File Surreply is **DENED as moot**. [ECF No. 26]

IT IS FURTHER ORDERED that Plaintiffs' "Motion for Leave to File The Surreply Order and Memorandum Amended Brief, 'Fed. R. Civ. P. 12(e), Motion for Definite Statement' and Plaintiffs' Opposition to Defendant Christopher Klaverkamp, Motion to Dismiss Memorandum Support, Order, FRCP. Rule 19 Motion for 'Defendant Christopher Klaverkamp for more Definite Statement'" is **DENIED**. [ECF No. 34]

IT IS FURTHER ORDERED that Defendants Christopher Klaverkamp and Scott Amos shall respond to Plaintiffs' Amended Complaint within the time allowed by the Federal Rules of Civil Procedure and Local Rules of this Court.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of November, 2022.